

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KYLE JORDAN TIMCO,

Plaintiff,

Case No. 23-11239

v.

Honorable Nancy G. Edmunds

STERLING HEIGHTS
POLICE DEPARTMENT, *et al.*,

Defendants.

**ORDER REQUIRING CLARIFICATION REGARDING
PLAINTIFF'S INTENT TO VOLUNTARILY DISMISS HIS CLAIMS**

Plaintiff Kyle Jordan Timco's underlying complaint was first filed on May 12, 2023. The complaint was docketed as case no. 23-11132 and upon the Court's initial review, it was summarily dismissed. (Case No. 23-11132, ECF No. 6.) On May 25, 2023, Plaintiff refiled the same complaint along with a pleading entitled "Continuation of Complaint & Reasons for accepting jurisdiction" and a number of documents that provide additional information regarding his claims. (ECF No. 1.) The new pleadings were docketed as a separate case and assigned the above-captioned case number. Plaintiff, however, includes the first case number in the filing and appears to view it as an amendment of the original complaint. (*Id.* at PageID.13-14.) The Court has not yet conducted its initial screening of the refiled complaint. On June 22, 2023, Plaintiff filed a "motion to withdraw" in case no. 23-11132, stating that "I find it in my best interest at this time not to move forward against these parties listed above."¹ (Case No. 23-11132, ECF No. 9.) The parties

¹ The Court entered a text-only order terminating that motion as moot because it was filed after the closing of the case. The Court also noted that "[t]o the extent Plaintiff

listed in the caption of that motion are the same parties listed in this case, particularly in the caption of the “Continuation of Complaint” document. Under Federal Rule of Civil Procedure 41(a)(1)(A)(i), a plaintiff may dismiss an action without a court order by filing a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment. Thus, **IT IS HEREBY ORDERED that Plaintiff shall, within ten (10) days of the date of this order, clarify in writing whether he intends to voluntarily dismiss his claims within the context of this case as well. Failure to respond to the Court’s order may result in the dismissal of this case under Federal Rule of Civil Procedure 41(b).** If Plaintiff indicates a desire to proceed with this case, the Court will then undertake an initial review of the pleadings.

SO ORDERED.

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: July 18, 2023

I hereby certify that a copy of the foregoing document was served upon counsel of record on July 18, 2023, by electronic and/or ordinary mail.

s/Lisa Bartlett
Case Manager

seeks to voluntarily dismiss his second, similar complaint, he should file a notice of voluntary dismissal in that case – case no. 23-11239.” No notice has been filed.